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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/059,078

01/28/2002

Thomas J. Perkowski

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EXAMINER

CARLSON, JEFFREY D

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

07/26/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/059,078	<b>Applicant(s)</b> PERKOWSKI, THOMAS J.	
	<b>Examiner</b> Jeffrey D. Carlson	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 49-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/28/02, 8/5/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to the paper(s) filed 5/10/2010.

### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the hand-drawn portions of not of acceptable quality, making it difficult to ascertain their content. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Terminal Disclaimer***

3. The Terminal Disclaimer filed 5/10/2010 has NOT been approved for the following reason(s):
  - The terminal disclaimer does not comply with 37 CFR 1.321(b) and/or (c) because: The person who has signed the disclaimer has not stated the extent of his/her interest, or the business entity's interest, in the application/patent. See 37 CFR 1.321(b)(3). The amount of ownership in US application 10/059,078 is not stated.

### ***Double Patenting***

4. Applicant has created quite a tangled web of similarly-focused pending applications, many of which are being examined by this examiner. There appears to be

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no apparent rhyme or reason why so many applications are copending, nor any focus on any particular inventive twist or direction specific to each case, thus failing to create a clear line of demarcation between the applications. See MPEP § 822. For this reason, there are an overwhelming amount of overlapping claims and concepts which are subject to the following double patenting issues.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 49-68 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the following claims of the following copending applications.

<u>Application</u>	<u>Claims</u>
10/812341	31-32, 34-38, 40, 42-43, 45-46, 48-52, 54, 56-57
11/823828	8-21, 37-53

10/058970 98-115  
09/695744 478-484, 486, 488 and 489

7. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons:

- It would have been obvious to one of ordinary skill at the time of the invention to have provided such a system whether it is for offered products identified by product name, description, trademark or for offered services identified by service names, descriptions and service marks.
- It would have been obvious to one of ordinary skill at the time of the invention to have characterized a BIN network with UPN/TM and URLs in a similar fashion as a collection of CPI links (URLs) in association with UPN/TM.
- A catalog of MMVK tags is taken to be equivalent to a library of MMVK tags and it would have been obvious to one of ordinary skill at the time of the invention to have employed a collection of tags so that the system can properly link to a URL (by a well known HTML tag) so that the consumer can request and receive product information for a particular product.
- It would have been obvious to one of ordinary skill at the time of the invention to have programmed the display modes of the MMVKs so that they deliver "information resources" as relevant to the consumer-requested product or service.

8. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Objections***

9. Claim 64 is objected to for the following minor informalities:
- Claim 64 should apparently depend from 60, else it would be a copy of claim 53. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 49-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Because the amendments filed 5/10/2010 do not adequately overcome all of the previous 112P2 rejections, some of the 112P2 rejections are repeated below. Therefore, THE FOLLOWING REFERENCES TO PAGE AND LINE NUMBER REFER TO THE PAGE AND LINE NUMBER OF **CLAIMS FILED 11/12/2009**.
- Claim 49, the second web based subsystem (see claims filed 11/12/2009 - bottom of page 3 of 11) appears to repeat features already recited – the first part being a repeat of “a second web-based subsystem configured to..” (see

claims filed 11/12/2009 - pg 2 of 11); the second part being a repeat of "wherein said second Internet-enabled information server.." (see claims filed 11/12/2009 - page 3 of 11). It is not clear if the claimed system is suppose" to included these redundancies or not.

- Claim 49, there is no antecedent basis for "said first Internet-enabled information server" (see claims filed 11/12/2009 - top of page 3 of 11).
- Claim 60, there is no antecedent basis for "said first Internet-enabled information server" (see claims filed 11/12/2009 - near the top of page 7 of 11).

### ***Allowable Subject Matter***

12. As best understood, claims 49-68 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Monday-Fridays; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey D. Carlson/  
Primary Examiner, Art Unit 3622

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